



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

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March 8, 2022

1165R Mass MA Property LLC
c/o Spaulding & Slye Investments
One Post Office Square, Floor 26
Boston, MA 02109
Attn: Daniel St. Clair

**Re: 1165R Massachusetts Avenue Redevelopment
Final Approval
MassHousing ID No. 1088**

Dear Mr. St. Clair:

This letter constitutes final approval under 760 CMR 56.04(7) ("Final Approval") of the project known as 1165R Massachusetts Avenue Redevelopment (the "Project") following the issuance of a comprehensive permit pursuant to Massachusetts General Laws Chapter 40B, 760 CMR 56.00 and the Comprehensive Permit Guidelines issued by the Department of Housing and Community Development (DHCD) (the "Guidelines") (collectively, the "Comprehensive Permit Rules").

On November 17, 2020, the Massachusetts Housing Finance Agency ("MassHousing" or "Subsidizing Agency"), issued a Project Eligibility Letter to 1165R Mass MA Property, LLC (the "Applicant") to construct one-hundred and thirty (130) units of rental housing, including thirty-three (33) affordable units on approximately 2 acres of land located at 1165R Massachusetts Avenue in Arlington (the "Site") under the New England Fund ("NEF") Program of the Federal Home Loan Bank of Boston ("FHLBank Boston").

On or about December 4, 2020, the Applicant filed an application for a comprehensive permit from the Arlington Zoning Board of Appeals ("ZBA"). The ZBA opened a duly noticed public hearing on or about January 5, 2021. During the public hearing process the number of units of rental housing was reduced to one-hundred and twenty-four (124) units. By decision dated September 2, 2021, as recorded at the Middlesex South Registry of Deed in Book 79029, Page 164, the ZBA voted to approve the Project as amended during the public hearing process (the "Final Project").

Pursuant to 760 CMR 56.05 (12)(B), we hereby reconfirm that the Applicant meets the requirements of 760 CMR 56.04 (1)(a) and (b). In accordance with the Comprehensive Permit Rules, prior to the issuance of any municipal permits for the Final Project, the Applicant must present Final Approval from the entity that issued the Determination of Project Eligibility. Accordingly, this letter constitutes Final Approval by MassHousing as Subsidizing Agency of the Final Project.

According to information presented by the Applicant, the Final Project will receive permanent financing under the NEF Program through Eastern Bank, a FHLBank Boston Member Bank.

Pursuant to the Comprehensive Permit and the Comprehensive Permit Rules, the Final Project will contain one-hundred and twenty-four (124) units of rental housing, of which thirty-one (31) will be available for rental to persons or families earning not greater than eighty percent (80%) of the Area Median Income (“Income Requirement”) for a term of thirty (30) years (“Term Requirement”), and annual distributions to the Developer, its successors and assigns, shall be limited to no more than 10 percent of equity in the Final Project (“Limited Dividend Requirement”).

In connection with our determination herein, we have reviewed (i) the Site Approval (prior to the issuance of which an on-site inspection was performed), (ii) the Comprehensive Permit and any subsequent modifications, (iii) the revised, preliminary plans on which the Comprehensive Permit was based (the “Plans”), (iv) the form of regulatory agreement (the “Regulatory Agreement”) and any separate use restriction (the “Use Restriction”) to be recorded with the land records in the registry district in which the Municipality is located, (v) the Affirmative Fair Housing Marketing Plan (*AFHMP*) – including Resident Selection and Lottery Procedures, (vi) an updated initial pro forma for the Final Project (the “Updated Pro Forma”), (vii) the terms of the financing to be used for the Final Project, including provisions for monitoring of the Final Project during construction (the “Financing”), (viii) if not set forth on the Plans, a unit locator plan showing the preliminary location of the income-restricted units (the “Unit Locator Plan”), and (ix) other pertinent information presented by the Applicant and others.

As a result of our review, we have made the findings required by 760 CMR 56.04(7)(a), as informed by 56.04(1) and (4). In addition, the affordable units, if located in general conformance with the Unit Locator Plan or the Plans, will be reasonably interspersed with the market rate units.

Further, as required by 760 CMR 56.04(7)(b) and (c), this Final Approval (i) confirms that the executed Regulatory and Use Agreement [Rental] (a copy of which is annexed hereto as Exhibit A), as the proposed Use Restriction, is in a form consistent with the Comprehensive Permit Rules; and (ii) verifies, as required by 760 CMR 56.04(7)(c), that the cost examination requirements have been acknowledged and that a commitment has been made by the Applicant to comply with the cost examination requirements defined in 760 CMR 56.04(8), as evidenced by the Developer’s executed Acknowledgement of Obligations (a copy of which is annexed hereto as Exhibit B), and (iii) verifies that adequate financial surety, as defined in the Comprehensive Permit Rules, has been secured and is sufficient to ensure completion of the cost examination, as defined in the Guidelines, and as evidenced by the Letter of Credit from Eastern Bank issued on March 3, 2022 and held by MassHousing under the Comprehensive Permit Rules or as lender.

Submission of an examined cost certification will be required upon completion of the development to determine that developer fees and profits do not exceed the Maximum Allowable Developer Fee and Overhead limits determined by DHCD and available in the “Inter-Agency 40B Rental Cost Certification Guidance for Owners, Certified Public Accountants and Municipalities.” Cost certification will also determine, through a separate calculation, the initial “Owner’s Equity,” which may be revised from time to time pursuant to the terms of the Regulatory Agreement, and annual dividend distribution limitation (“Limited Dividend”), which is based on 10% of Owner’s Equity commencing upon the development’s initial occupancy. The determination of Owner’s Equity and Limited Dividend are subject to adjustment as determined by DHCD pursuant to the Guidelines and/or by MassHousing in accordance with its regulations or other published procedures.

In accordance with the provisions of the Site Approval letter, the Developer must adhere to the Land Value Policy described in the Guidelines. The “As-Is Value” land acquisition cost, for cost certification purposes, has been established at \$3,980,000, based on the appraisal prepared for MassHousing by Bonz and Company, Inc. as of July 9, 2020, subject to adjustments as provided in the Guidelines. Please note that while MassHousing has reviewed the Updated Pro Forma and determined that it appears reasonable and consistent with the Comprehensive Permit Rules, this Final Approval is not an approval of the Updated Pro Forma’s individual line items and all line items other than land acquisition cost will need to be properly supported when the Final Project’s cost certification is submitted.

Please note that this Final Approval does not constitute site plan or building design approval. Furthermore, please note that we have not reviewed nor approved the Plans for compliance with federal, state or local codes or other laws pertaining to construction since such approvals are within the jurisdiction of the local building official and zoning enforcement officer. Similarly, we are relying on the local building official and zoning enforcement officer to ensure that the final plans and specifications comply with the Comprehensive Permit prior to issuing a building permit. We view issuance of the building permit as evidence of such compliance.

This Final Approval is contingent upon recording of the Regulatory Agreement executed on behalf of the Applicant and dated as of February 17, 2022 in the form prescribed by MassHousing. Furthermore, this Final Approval will be effective for a period of the earlier of (a) six months following the date of this letter, or (b) the earlier of the expiration date of either the construction or the permanent loan commitments submitted as part of the Final Approval application. Should the Applicant not apply for building permits for the Final Project within this period or should MassHousing not extend the effective period of this letter in writing, the letter shall be considered to have expired and no longer be in effect. In addition, we are requiring that MassHousing be notified at the time of the issuance of the building permits for the Final Project.

If you have any questions concerning this letter, please contact Monica Passeno at mpasseno@masshousing.com or at 802-488-9727.

Sincerely,

Jessica Malcolm

Jessica Malcolm
Manager, Planning and Programs

Attachments:

Exhibit A: Regulatory and Use Agreement [Rental]

cc: Jennifer Maddox, Undersecretary, DHCD
Christian Klein, Chair, Arlington Zoning Board of Appeals
Stephen W. DeCoursey, Chair, Arlington Select Board